

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ERNEST K. MANDERS, M.D.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action 02-1341
	)	
MCGHAN MEDICAL CORPORATION, a	)	
Subsidiary and or division of INAMED	)	
CORPORATION a Delaware Corporation,	)	
INAMED MEDICAL PRODUCTS	)	
CORPORATION A SUBSIDIARY AND	)	
OR DIVISION OF INAMED	)	
CORPORATION A CALIFORNIA	)	
CORPORATION,	)	
	)	
Defendants.	)	

**ORDER**

This 23<sup>rd</sup> day of February, 2006, for the reasons set forth in the Memorandum Opinion issued this date,

IT IS HEREBY ORDERED that for the purposes of United States Patent No. 4,574, 780, claims 31-35, 37, 39, 40, 44 and 46 and claims 24 and 25 are construed as set forth in Exhibit A attached hereto and made a part hereof.

By the court,

/s/ Joy Flowers Conti  
Joy Flowers Conti  
United States District Judge

cc: Counsel of Record

Manders v. McGhan Medical Corp, etc., et al.  
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**EXHIBIT A**

<b>Claim</b>	<b>Limitation</b>	<b>Construction</b>
31	A soft tissue expander device adapted to be implanted collapsed beneath a soft tissue layer or skin and subcutaneous tissue,	preamble will not be considered limiting
31	the device comprising	the device including but not limited to the following
31	flexible wall means defining a fluid impervious chamber,	a pliable barrier that demarcates an enclosed space and does not allow fluids to pass through
31	and an injection port communicating with the interior of the chamber for admitting fluid into the chamber to expand the chamber,	a sealable opening, located either remote from or in the flexible wall means, connecting to the interior of the chamber allowing the entrance of fluid into the chamber to expand the chamber
31	said wall means including an expandable cover in contact with the layer of skin and subcutaneous tissue when the device is implanted,	a portion of the wall means that can be increased in size which would face the layer of skin and subcutaneous tissue when implanted
31	the cover including a first limited expansion portion expandable by initial fluid injected through the port and into the chamber from a collapsed implantation position to a taut position above the collapsed position	the cover including a portion that is capable of increasing in size by the initial fluid injected through the port and into the chamber from collapsed implantation position to a taut position over the collapsed position where "collapsed," at this time and without the knowledge of the "conventional manner," means the device is empty of fluid

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<b>Claim</b>	<b>Limitation</b>	<b>Construction</b>
31	and a second differential expansion portion adjacent said limited expansion portion expandable by said initial injected fluid with the limited expansion portion above the collapsed implantation position	another portion of the cover, joined to the limited expansion portion either directly or through a tapered portion, capable of expanding differently from but expandable with the limited expansion portion by the initial injected fluid above the collapsed position
31	said limited expansion portion including limiting means preventing further expansion of such portion beyond said taut position by further fluid injected into the chamber in addition to the initial injected fluid	function is to hinder further expansion of the limited expansion portion and the corresponding structures for this function are a thickened limited expansion portion with either a uniform or tapered structure, a reinforced limited expansion portion, or multiple bonded layers of material for the limited expansion cover portion
31	said differential expansion portion including expansion means permitting further expansion of such portion by said further fluid	function is to allow expansion of the differential expansion portion by injection of said further fluid and that potential correlating structures are a relatively thin differential expansion cover portion and an unreinforced or reinforced differential expansion cover portion that is larger in area than the limited expansion portion

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<b>Claim</b>	<b>Limitation</b>	<b>Construction</b>
31	whereby fluid injected through the port and into a chamber of an implanted device first expands both the first and second cover portions together with the tissue overlying such portions and then further expands the second cover portion together with the tissue overlying the second cover portion only to form a differentially expanded tissue flap.	whereby clause will not be considered limiting
32	A device as in claim 31 wherein one cover portion extends across the cover.	a device as in claim 31 wherein at least one portion of the cover (i.e., limited expansion portion or differential expansion portion) reaches from one side of the device adjoining the base to the other side of the device adjoining the base
33	A device as in claim 31 wherein said limited expansion portion extends across the cover.	a device as in claim 31 wherein the limited expansion portion of the cover reaches from one side of the device adjoining the base the other side of the device adjoining the base
34	A device as in claim 33 wherein the differential expansion portion is formed from an elastomer material and is bulbous in shape when such portion is fully expanded.	a device as in claim 33 wherein the differential expansion portion is formed from a substance having the elastic properties of rubber and resembling a bulb shape when it is fully expanded
35	A device as in claim 31 wherein both cover portions extend across the cover.	a device as in claim 31 wherein both the limited expansion portion and the differential expansion portion of the cover reach from one side of the device adjoining the base to the other side of the device adjoining the base

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<b>Claim</b>	<b>Limitation</b>	<b>Construction</b>
37	A device as in claim 31 wherein the cover is formed of an elastomer material.	a device as in claim 31 wherein the cover is formed from a substance having the elastic properties of rubber
39	A device as in claim 37 wherein the differential expansion portion is thinner than the limited expansion portion.	a device as in claim 37 wherein the differential expansion portion has comparatively lesser overall thickness than the limited expansion portion
40	A device as in claim 39 wherein the thickness of the differential expansion portion decreases in a direction away from the limited expansion portion.	a device as in claim 39 wherein the differential expansion portion has a lesser thickness at a point further from the limited expansion portion than it does at a point closer to the limited expansion portion
44	A device as in claim 31 wherein the port is formed in the limited expansion portion of the cover.	a device as in claim 31 wherein the port is located within the limited expansion portion of the cover
46	A device as in claim 31 wherein the wall means includes a dimensionally stable base.	a device as in claim 31 wherein the wall means includes a lower or bottom part that is resistant to sudden change in width or length
24	A surgical method of expanding and applying soft tissue by use of a soft tissue expander device having an expandable cover	preamble will not be considered limiting

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<b>Claim</b>	<b>Limitation</b>	<b>Construction</b>
24	comprising the step of:	the method including but not limited to the following steps performable in any order unless inherently demanded by the nature of the steps and where this claim does not require steps (e) and (f) to be performed in the stated order
24	(a) Separating a layer of skin and subcutaneous soft tissue connected to surrounding skin and soft tissue from underlying support tissue to form a pocket;	spacing apart the skin and loose connective tissue located just beneath the skin connected to surrounding skin and soft tissue from the support tissue lying beneath to create a pocket
24	(b) Placing a collapsed soft tissue expander device in the pocket with the cover of the device facing the separated tissue layer;	placing a collapsed soft tissue expander device in the pocket with the cover of the device facing the separated tissue layer, where “collapsed,” at this time and without the knowledge of the “conventional manner,” means the device is empty of fluid
24	(c) Forcing the cover against the separated tissue to expand the tissue layer substantially uniformly away from the underlying tissue;	pushing the cover against the separated tissue to expand the tissue layer consistently, but with acceptable minor variations, from the underlying tissue
24	(d) Retaining a first portion of the cover in the expanded position and further forcing a second portion of the cover against the overlying portion of the separated tissue layer to further expand such overlying portion only;	keeping the first portion of the cover in the expanded position and further pushing a second portion of the cover against the portion of the separated tissue that lies over it to further expand only such overlying tissue

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<b>Claim</b>	<b>Limitation</b>	<b>Construction</b>
24	(e) Collapsing and removing the soft tissue expander device from the pocket;	collapsing and removing the soft tissue expander device from the pocket, where “collapsed,” at this time and without the knowledge of the “conventional manner,” means the device is empty of fluid
24	(f) Severing edges of the expanded layer from surrounding soft tissue to form a differentially expanded tissue flap; and	separating dividing lines of the expanded layer from the soft tissue along the outer points of the expanded tissue layer to render it capable of being used to cover an area greater than its original area
24	(g) Flattening and applying the tissue flap to a recipient area larger than the area of the separated layer.	smoothing and applying the differentially expanded tissue flap to a recipient area larger than the area of separated tissue
25	The method of claim 24 including the steps of retaining one edge of the tissue flap connected to surrounding tissue, moving the flap away from the edge so that it overlies an adjacent recipient area and applying the flap to such area.	keeping in position one line of intersection between the tissue flap and tissue that extends on all sides of and joins to the tissue flap, moving the flap in a direction other than towards the intact border so that it covers a receiving area near to the differentially expanded tissue flap and applying the flap to such area